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building operations, etc., etc. By A. PARLETT LLOYD, of the Baltimore Bar. Second edition, revised and enlarged. Boston and New York: Houghton, Mifflin & Co., The Riverside Press, Cambridge. 1894.

The second edition of this excellent work has just been sent to us for review. Although Mr. LLOYD's work is already favorably known to the profession, in view of the importance of the subject a few words in regard to the method of treatment adopted may not be amiss. Mr. LLOYD treats the subject under four principal titles, building contracts, building leases, easements relating to buildings, and mechanics' liens. Of special interest are the chapters upon the duties and responsibilities of architects and superintendents, performance of building contracts, penalties and liquidated damages, and party walls. The work presents a clear, concise and, so far as we have been able to ascertain, an accurate view of the present condition of the law, and will undoubtedly prove invaluable to the practitioner as a work of ready reference. This by no means implies that, in the estimation of the reviewer, the work is to be regarded as a mere digest of cases. On the contrary, it could with much greater propriety be described as a digest of principles rather than cases. To say as much as this of any work is necessarily to award it a very large measure of praise. On the other hand it should be observed that, in his effort to produce a purely practical work avoiding all useless speculation, the author has failed to trace principles to their origin in a truly scientific spirit, and, therefore, in the opinion of the reviewer, his work not only lacks scientific completeness but in many respects even its practical value is much impaired.

HOWARD W. PAGE.

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**AN ESSAY ON THE LAW RELATING TO TELEGRAPH COMPANIES.**

By EDWARD BROOKS, JR. Lancaster, Pa.: Wickersham Printing Company. 1893.

Mr. BROOKS's view of the development of "The Law Relating to Telegraph Companies" may be gathered from

the following passages in which (after stating the diverse views of the courts) he justly criticises them for their failure to employ the method of agreement and difference in their efforts to get at the truth. "The trouble lies in the fact that every one who has investigated the subject, has searched among the traditions of the common law for some status to which they could relegate Telegraph Companies. No one has seemed to realize that, in the invention of the telegraph, a new discovery was made, a new method of communication introduced, which would require, in its workings, the application of principles other than those which applied to the then prevailing system. The common law furnishes no status which can strictly be said to be identical with that of a Telegraph Company. These companies stand on their own bases and have a status peculiar to themselves."

The author proceeds to analyze the redundant statements of the courts in the matter of determining the measure of liability of a Telegraph Company. He says, "Notwithstanding the diversity of decisions in regard to the status of these companies, the courts have, with one accord, decided that a Telegraph Company is liable only for want of due care. The first question, therefore, which presents itself for consideration is, what is the meaning of the expression, 'due care?' The question is readily answered. 'Due care' is such diligence in respect to the safe transmission of messages, as Telegraph Companies are required by law to exercise. This answer, however, immediately gives rise to another question, viz.: What degree of care or diligence does the law require? This degree of care has been variously stated by different courts to be 'reasonable care,' 'care and diligence adequate to the business,' 'highest degree of diligence and skill,' but what do these expressions mean? 'These are but the varied forms of expressing the requirement of what is known in law as 'ordinary care,' as applied to an employment of this nature,' says Mr. Justice Foster, in *Fowler v. Tel. Co.*, 80 Me. 381, 388. But the question immediately arises, what is meant by 'ordinary care as applied to an employment of this nature?' The answer to this question can only be found by a reference

to some of the more important cases." This citation is a good illustration of the author's critical faculty.

The work is characterized throughout by a clearness of thought and a vigor of statement which make it most interesting and suggestive, and, therefore, valuable. It is an essay as distinguished from a treatise. Mr. BROOKS has, however, collected and discussed all of the most important cases, and his classification of the subject is probably, on the whole, the best that could have been adopted in view of the fact that he steadily adheres to his plan of investigating how far existing doctrines and principles must be modified in order to meet the peculiar requirements of the subject. It, therefore, seems natural to discuss successively as he does, "The Status of a Telegraph Company;" "The Liability of a Telegraph Company;" "The Limitation of Liability by Conditions in the Message Blanks;" "The Measure of Damage."

Each of these heads is, of course, elaborately subdivided. The discussion, under the last head, of "Mental Suffering" (page 54) is particularly to be commended. G. W. P.

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THE LAW OF EXPERT TESTIMONY. By EVAN B. LEWIS, A. M., LL.B., of the Philadelphia Bar. Philadelphia: Rees Welsh & Co. 1894.

The author states in his preface that "This volume is intended to give a general treatise [sic] on the law of expert testimony, as it is found in the decisions of the various States, together with the common law principles as they are applied in our courts." After a careful examination of this book, we find that, with its good features, it is not only not exhaustive, but it is, in a number of instances which have come to our notice, inaccurate. Thus, on page 32 we find the following: "The general rule is to exclude any writing for comparison. This is the prevailing English common law rule; and one substantially like it prevails in the New England States, Mississippi, Ohio, Kansas, Iowa, Texas, New Jersey and New York."

The author does not seem to be aware of the fact that the